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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

18 In re  
19 THE ROMAN CATHOLIC ARCHBISHOP  
20 OF SAN FRANCISCO,  
21 Debtor and  
Debtor in Possession.

Case No. 23-30564

Chapter 11

**DEBTOR'S OPPOSITION TO MOTION OF  
CERTAIN INSURERS FOR RELIEF FROM  
AUTOMATIC STAY TO PERMIT  
CALIFORNIA COVERAGE ACTION TO  
CONTINUE**

Date: November 30, 2023  
Time: 1:30 p.m.  
Location: via Zoom  
Judge: Hon. Denis Montali

1       The Roman Catholic Archbishop of San Francisco (“Debtor”), hereby files its objection to  
2 the *Motion of Certain Insurers for Relief from Automatic Stay to Permit California Coverage Action*  
3 *to Continue* [ECF 251] (“Motion”) as follows:<sup>1</sup>

4           1.       On July 28, 2023, the Century Indemnity Company, as successor to CCI Insurance  
5 Company and Insurance Company of North America, Pacific Indemnity Company, and Westchester  
6 Fire Insurance Company as successor in interest to Industrial Underwriters Insurance Company for  
7 policies JU835-8355 and JU895-0964 (collectively, the “Insurers”) filed a complaint entitled  
8 *Century Indemnity Company et al. v. Roman Catholic Archbishop of San Francisco, et al.*, Case No.  
9 CGC23607975, in the Superior Court of California, County of San Francisco (the “California  
10 Coverage Action”). The Debtor’s responsive pleading was not due prior to the filing of the petition  
11 initiating this Chapter 11 case on August 21, 2023. Thus, nothing material other than the filing of  
12 the complaint occurred in the California Coverage Action prior to this bankruptcy filing. The  
13 Insurers who filed the California Coverage Action represent only a small subset of the totality of the  
14 insurers who sold policies to the Debtor covering the abuse claims at issue in the Chapter 11 case.

15           2.       As noted in the Motion, the California Coverage Action seeks declarations  
16 concerning the parties’ respective rights and obligations under the Insurer Policies, including a  
17 declaration that the Insurers have no duty to defend or indemnify the Archdiocese for any liability  
18 stemming from the sexual abuse claims to the extent the bodily injuries alleged in the CCVA Claims  
19 were expected or intended from the standpoint of the RCASF, that the claims do not involve an  
20 “accident” or “occurrence” within the meaning of the Insurer Policies, and for additional grounds.

21           3.       The California Coverage Action raises issues that are of primary importance to the  
22 resolution of this Chapter 11 case. These issues will necessarily need to be part of any mediation  
23 with and among the Debtor, the Official Committee of Unsecured Creditors (the “Committee”), the  
24 Insurer plaintiffs in the California Coverage Action and the other insurers with policies insuring the  
25 Debtor for the abuse claims.

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<sup>1</sup> Capitalize terms not otherwise defined herein shall have the same meanings ascribed to them in  
28 the Motion.

1       4.     Under these circumstances, the California Coverage Action is best suited to be in this  
2 Court so that this Court can manage the chapter 11 process with the input of *all* parties including  
3 the Committee, rather than certain parties litigating in state court with one sub-set of insurers and  
4 proceeding in this Court for the balance of the chapter 11 case.

5       5.     The Debtor will be removing the California Coverage Action pursuant to 28 U.S.C.  
6 section 1452 and Federal Rule of Bankruptcy Procedure 9027. Because there is conflicting case  
7 law on whether removal itself violates the automatic stay, the Debtor seeks an order from the Court  
8 for relief from the automatic stay, to the extent necessary, solely for the Debtor to effect removal of  
9 the California Coverage Action to this Court. *See, e.g., Sec. Farms v. Int'l Bhd. Of Teamsters,*  
10 *Chauffeurs, Warehousemen & Helpers*, 124 F.3d 999, 1007 n.3 (9th Cir. 1997) (“[A party] could not  
11 remove the state court proceeding until the bankruptcy court officially lifted the automatic stay.”);  
12 *In re Hoskins*, 266 B.R. 872, 877 (Bankr. W.D. Mo. 2001) (“[A]ctions stayed by a bankruptcy filing  
13 include removing a pending state court lawsuit to bankruptcy court if the claim or cause of action is  
14 subject to the automatic stay.”); *contra, In re Brateman Bros., Inc.*, 135 B.R. 853, 855 (Bankr. N.D.  
15 Ind. 1991) (automatic stay may not apply to removal of pending litigation). In each of these cases,  
16 the removing party was the creditor, whereas here the removing party is the Debtor.

17       6.     The Advisory Committee Notes to Rule 9027 and case law are clear, however, that  
18 once a matter that is subject to the automatic stay is removed, the stay continues to apply. *See, Fed.*  
19 *R. Bankr. P. 9027 Advisory Committee’s Note* (1983) (“If the claim or cause of action which is  
20 removed to the bankruptcy court is subject to the automatic stay of § 362 of the Code, the litigation  
21 may not proceed in the bankruptcy court until relief from the stay is granted.”); *see, In re Brateman*  
22 *Bros., Inc.*, 135 B.R. at 855 (mere fact that litigation is removed does not operate to terminate the  
23 automatic stay citing Advisory Committee’s note to Rule 9027); *In re Cashco, Inc.*, 599 B.R. 138,  
24 147-148 (Bankr. D.N.M 2019) (citing Rule 9027 Advisory Committee’s Note 1983).

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1       7. After removal is accomplished, the Debtor requests the Court to set a status in the  
2 removed but stayed California Coverage Action to address further if and how the matter should  
3 proceed. The Debtor reserves all rights in that respect.

4       8. Except as otherwise addressed herein, the Debtor respectfully requests that all other  
5 relief requested by the Motion be denied.

6 Dated: November 16, 2023

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